

REMARKS/ARGUMENTS

Description of amendments

Applicant has amended claims 4, 5, 7, 9, and 22; and cancelled claims 1-3. Claims 4-8 and 22-29 are now pending and under examination, and claims 9-21 and 30-46 are withdrawn.

The amendments to claim 4 are supported by original claims 1-3.

Objection to the claims

Claims 22-26 were objected to for containing informalities. Specifically, it was contended that claim 22 was not a proper Markush-type claim. For the following reasons, Applicant respectfully traverses the objection.

Each of the recited elements of claim 22 belongs to a recognized physical class. The class is substrate materials. Additionally, they have certain physical characteristics in common making them suitable in the invention--they are all solid, substantially inert materials suitable for use in the claimed invention.

Rejection under 35 U.S.C. §102

Claims 1-3, 7, 8, 22, 23, and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by Alt (U.S. Patent 6,099,561). Since claims 1-3 have been cancelled and claims 7, 8, 22, 23, and 25 now depend from claim 4, this rejection is moot.

Claims 1-6 and 27 were rejected under 35 U.S.C. §102(e) as being anticipated by Hunter et al. (U.S. Patent Publication 2004/0002766). The rejection of claims 1-3 has been rendered moot by their cancellation. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 4-6 and 27.

Each of claims 4-6 and 27, either directly or indirectly, recites a ceramic component that comprises a first porous region and a second porous region, wherein the second porous region is less porous than the first porous region.

The Examiner claimed that this limitation is disclosed by Hunter et al., because paragraph 79 of Hunter et al. discloses that a ceramic is fused to a metal. The Examiner further contends that the ceramic's region of attachment, which is fused to the metal, is less porous than the outer region.

For the following two reasons, Applicant respectfully submits that the Examiner did not establish that the limitation is disclosed by Hunter et al. First, paragraph 79 of Hunter et al. does not disclose that a ceramic material is fused to a metal. Paragraph 79 of Hunter et al. discloses only that a diffusion-hardened surface is bonded to a metal or metal alloy substrate. Paragraph 67 of Hunter et al. discloses that the diffusion-hardened surface is an oxide or nitride surface such as oxidized zirconium or nitrided zirconium. In other words, Hunter et al. discloses a non-ceramic diffusion-hardened surface that is bonded to a metal or metal alloy substrate.

Second, the Examiner failed to contend that the alleged “ceramic” material is porous, as required by independent claims 4 and 27. In fact, paragraph 79 of Hunter et al. discloses that the diffusion-hardened surface “provides a barrier between the body fluids and the metal or metal alloy, thereby preventing the corrosion of the alloy by the process of ionization and its associated metal ion release.” In other words, the diffusion-hardened surface is not porous, because a porous surface layer cannot provide “a barrier between the body fluids and the metal or metal alloy.”

Claims 1-7, 21, 22, and 27-29 were rejected under 35 U.S.C. §102(e) as being anticipated by Brandau et al. (U.S. Patent 6,709,379). The rejection of claims 1-3 has been rendered moot by their cancellation. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 4-7, 21, 22, and 27-29.

Each of the rejected claims, either directly or indirectly, recites a ceramic component that comprises a first porous region and a second less porous region, wherein the ceramic component connects to an attachment region through the second less porous region.

The Examiner contended only that Brandau et al. discloses a ceramic layer in which porous and less porous regions are present to some extent even though they are not explicitly disclosed. However, the Examiner did not contend that Brandau et al. discloses that the ceramic component connects to an attachment region through the second less porous region.

Claim 27 also recites an oxide layer that is disposed on or within the attachment region between the surface of the device and the ceramic component. The Examiner did not even address this limitation.

Application No. 10/623,908
Amendment dated March 14, 2006
Reply to Office action of December 30, 2005

Rejection under 35 U.S.C. §103(a)

Claims 24 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alt (U.S. Patent 6,099,561). This rejection is now moot, because claims 24 and 26 have been amended to depend from claim 4.

Withdrawn claims 9-21

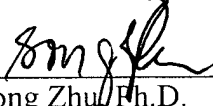
With respect to withdrawn claims 9-21, Applicant requests that the Examiner rejoin these claims. Each claim depends from an allowed based claim and is therefore allowable for at least the same reason. It would not make sense to file a divisional application on dependent claims for which its independent claim has been allowed.

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 07-1850.

Respectfully submitted,

Date: March 14, 2006

Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza
Suite 300
San Francisco, CA 94111
Facsimile (415) 393-9887
Telephone (415) 954-0241
szhu@ssd.com


Song Zhu Ph.D.
Attorney for Applicants
Reg. No. 44,420

SANFRANCISCO/174343.1